

IT IS ORDERED

Date Entered on Docket: January 26, 2021



The Honorable David T. Thuma
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO**

In re:

STEVEN DWAYNE HODGES,
MICHELLE LEANNE HODGES,

Debtors.

Case No. 20-10602-tf13

**STIPULATED ORDER MODIFYING AUTOMATIC STAY AND ABANDONMENT OF
PROPERTY OF THE ESTATE**

THIS MATTER comes before the Court upon stipulation of the parties herein as evidenced by their respective signatures below, Vanderbilt Mortgage and Finance, Inc. ("Creditor" or "Vanderbilt"), by and through its attorney of record, Davis Miles McGuire Gardner, PLLC (Ron Holmes), and the Chapter 13 trustee Tiffany Cornejo appearing *pro se*, the Debtors appearing by and through their attorney of record, Law Office of Gerald R. Velarde, P.C. (Gerald Velarde) and the Court being otherwise sufficiently advised in the premises FINDS:

1. The Debtors Steven Dwayne Hodges and Michelle Leanne Hodges, (“Debtors”) filed for relief on March 18, 2020, under Chapter 13. Tiffany Cornejo has been appointed the Chapter 13 trustee (“Trustee”).

2. On November 30, 2020, Creditor served the Motion for Relief from Stay (doc. 30) (“Motion”) and an Amended Notice of the deadline for filing Objections to the Motion (doc. 32)(the “Notice”) on Debtor’s attorney Gerald Velarde, and Tiffany M. Cornejo (the “Trustee”) by use of the Court’s case management and electronic filing system for the transmission of notice as authorized by Fed.R.Civ.P. 5(b)(3) and NM LBR 9036-1, and on the Debtors Steven and Michelle Hodges, by United States first class mail, in accordance with Bankruptcy Rules 7004 and 9014

3. The Motion relates to Debtors’ interest in real property including a manufactured home described as:

Tract 1B EXEMPT TRACT as shown on that certain Exempt Survey for Gary D. & Sheryl Blount Gonzales located in the Northeast Quarter of the Southwest Quarter (NE 1/4SW1/4) of Section Nineteen (19) , Township Twenty-Nine (29) North of Range Ten (10) West, N.M.P.M., San Juan County, New Mexico, being described as follows:
BEGINNING at a point that is 575.97 feet South 88'34'05" West, 3.15 feet, South 01'34'27" West 344.95 feet, South 85'11'53" East and 113.33 feet, South 01'59'22" East from the center Section Quarter Corner;
THENCE South 00'59'22" East 181.65 feet;
THENCE North 90'00'00" West 716.46 feet;
THENCE North 00'34'13" West 100.00 feet to a point in an existing fence;
THENCE South 90'00'00" East 258.91 feet;
THENCE North 00'59'22" West 81.64 feet;

THENCE South 90°00'00" East 456.82 feet to the point of beginning.
including any improvements, fixtures, and attachments, such as, but not limited to,
mobile homes.

4. The property is more commonly known as CR 4904 30A, Bloomfield, New Mexico ("Property") but if there is any discrepancy between the legal description and the common address then the legal description shall control. The Property includes a 2010 CMG Mobile Home ("**Collateral**") with VIN BRK001456TXAB financed by the Note and subject to a valid perfected Deed of Trust security interest held by Creditor.

5. The Notice provided for an objection deadline of twenty-one (21) days plus three (3) for mailing from the date of service of the Notice.

6. The Notice was sufficient in form and content.

7. The objection deadline expired on December 24, 2020.

8. On December 23, 2020 the Debtors filed a Response to the Motion (doc. 33). No other parties has filed a responsive pleading.

9. Commencing **02/01/2021**, Debtors shall make regular monthly post-petition payments under the Note and Mortgage to Creditor, and continuing on the first day of each month thereafter, under the terms of the Note and Mortgage.

10. Payments shall be made directly to Creditor at:

Vanderbilt Mortgage
P.O. Box 9800
Maryville, TN 37802

With reference to the last four digits of the Loan Number 7110

3. Commencing 2/15/2021 through 7/15/2021, Debtors shall make an additional monthly payment of \$1,441.59 per month until post-petition arrears in the sum of \$8,649.54 are paid. Said sum represents (5) the post-petition delinquency, attorney's fees and costs, less any suspense account balances as itemized below:

5 Payments (9/1/20 — 1/1/21) at \$1,476.80 each: \$7,384.00

Attorney's fees \$1,112.90

Tax \$87.64

Costs \$181.00

Suspense: (\$116.00)

Total: \$8,649.54

11. Debtors do not oppose the entry of this Stipulated Order lifting the stay as described herein.

12. Debtors shall timely perform all of their obligation regarding the payments described herein and all of their obligations under Creditor's loan documents as they come due, including but not limited to the payment of real estate taxes, maintaining insurance coverage, Chapter 13 Plan payments, and any and all senior liens.

13. In the event the Debtor fails to tender a payment as due for February 2021 and forward, Creditor may file a Notice of Default with the Court, which will be mailed to the Debtor and sent by electronic notification to Debtors' counsel. The Debtor will have ten (10) days from the filing of a Notice of Default to cure the default. The Debtors will only receive two (2) such Notices. If the Debtors fails to cure the default within ten (10) days from the filing of a Notice of Default, then upon Creditor's filing of an Affidavit of Default, the automatic stay effectuated by

Debtors' bankruptcy filing will be lifted as ordered herein, so that Creditor may avail itself of the rights and remedies afforded under its Note and Mortgage, including but not limited to the right to foreclose against the property if available under State Law.

14. In the event that the Debtors defaults a third time, Creditor may immediately proceed with the filing of its Affidavit of Default, thereby terminating the automatic stay and abandoning the subject Property as ordered herein, so that Creditor may avail itself of the rights and remedies afforded under its security agreement, including but not limited to the right to foreclose against the property if available under State Law.

15. In the event the Debtor defaults and upon proper notice of the default to the Trustee, the Trustee shall immediately cease making payments to Creditor pursuant to the Debtors' Chapter 13 Plan, and future payments, if any, will only be made by the Trustee pursuant to an Amended Proof of Claim filed by Creditor for any unsecured deficiency balance

16. If the stay is terminated herein due to Debtor's default, then the Stay shall remain in force with respect to the collection of any resulting deficiency and shall be set forth in a proof of claim filed with the Court.

17. There is no just cause to delay the entry of this Order.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Automatic Stay imposed by the filing of the above-entitled and numbered cause of action as the same pertains the Property know as CR 4904 30A, Bloomfield, New Mexico, including a 2010 CMH Mobile Home ("**Collateral**") with VIN BRK001456TXAB as described above is modified herein consistent with the terms described above.

IT IS FURTHER ORDERED that this Order shall be effective if this case is converted to any other Chapter under the Bankruptcy Code.

IT IS FURTHER ORDERED, that the Chapter 13 trustee's approval to this order is a conditional abandonment of the asset from the estate under 11 U.S.C. §554.

IT IS FURTHER ORDERED that the fourteen (14) day stay requirement of F.R.B.P. 4001(a)(3) is waived as of date of entry of this order.

IT IS SO ORDERED.

END OF DOCUMENT

Submitted by:

DAVIS MILES MCGUIRE GARDNER, PLLC

By /s/ submitted by email

Ron Holmes
Attorney for 21st Mortgage
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Approved by:

LAW OFFICE OF GERALD R. VELARDE, P.C.

By Approved by email 1/21/2021 reh

Gerald Velarde
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Albuquerque, NM 87192
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Approved by:

Approved by email 1/22/2021 reh

Tiffany Cornejo

Chapter 13 trustee

625 Silver Ave Suite 350

Albuquerque, NM 87102

(505) 243-2443

Parties entitled to notice:

Albert Lopez
1900 Briarwood Lane
Las Cruces, NM 88005